

1 HB45
2 164126-1
3 By Representative Todd
4 RFD: Ways and Means General Fund
5 First Read: 03-MAR-15
6 PFD: 02/23/2015

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8 SYNOPSIS: Currently, the State of Alabama levies a tax
9 on various tobacco products.

10 This bill would increase the tax on
11 cigarettes from \$.42.5 a pack to \$.75 a pack and
12 provide for its distribution.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 To amend Section 40-25-2, Code of Alabama 1975, as
19 amended by Act 2014 (2014 Regular Session) relating to the
20 state tax on tobacco products, to increase the tax on
21 cigarettes and provide for its distribution.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 40-25-2, Code of Alabama 1975, is
24 amended to read as follows:

25 "§40-25-2.

26 "(a) In addition to all other taxes of every kind
27 now imposed by law, every person, firm, corporation, club, or

1 association, within the State of Alabama, who sells or stores
2 or receives for the purpose of distribution to any person,
3 firm, corporation, club, or association within the State of
4 Alabama, cigars, cheroots, stogies, cigarettes, smoking
5 tobacco, chewing tobacco, snuff, or any substitute therefor,
6 either or all, shall pay to the State of Alabama for state
7 purposes only a license or privilege tax which shall be
8 measured by and graduated in accordance with the volume of
9 sales of such person, firm, corporation, club, or association
10 in Alabama. There is hereby levied license or privilege taxes
11 on articles containing tobacco enumerated in this article in
12 the following amounts:

13 "(1) LITTLE CIGARS. Upon cigars of all descriptions,
14 including filtered cigars, made of tobacco, or any substitute
15 therefor, and weighing not more than three pounds per 1,000,
16 \$.04 for each ten cigars, or fractional part thereof.

17 "(2) FILTERED CIGARS. Upon filtered cigars that have
18 a cellulose acetate or similar integrated filter, made of
19 tobacco, or any substitute therefor, and weighing more than
20 three pounds per 1,000, \$0.015 for each filtered cigar.

21 "(3) CHEROOTS, STOGIES, CIGARS, ETC. Upon all other
22 cigars of any descriptions made of tobacco, or any substitute
23 therefor, \$40.50 per thousand cigars, or \$0.0405 each.

24 "(4) CIGARETTES. Upon all cigarettes made of
25 tobacco, or any substitute therefor, ~~21.25~~ 37.5 mills on each
26 such cigarette.

1 "(5) SMOKING TOBACCO. Upon all smoking tobacco,
2 including granulated, plug cut, crimp cut, ready rubbed, and
3 other kinds and forms of tobacco prepared in such manner as to
4 be suitable for smoking in a pipe or cigarette, upon each
5 package: Weighing not more than one and one-eighth ounces, tax
6 \$.04; over one and one-eighth ounces, not exceeding two
7 ounces, tax \$.10; over two ounces, not exceeding three ounces,
8 tax \$.16; over three ounces, not exceeding four ounces, tax
9 \$.21; \$.06 additional tax for each ounce or fractional part
10 thereof over four ounces.

11 "(6) CHEWING TOBACCO. Upon all chewing tobacco
12 prepared in such manner as to be suitable for chewing only and
13 not suitable for smoking as described and taxed in subdivision
14 (9) of this subsection: \$.015 per ounce or fractional part
15 thereof.

16 "(7) SNUFF. Upon each can or package of snuff
17 weighing not more than five-eighths ounces, one cent tax; over
18 five-eighths ounces and not exceeding one and five-eighths
19 ounces, \$.02 tax; over one and five-eighths ounces and not
20 exceeding two and one-half ounces, \$.04 tax; over two and
21 one-half ounces and not exceeding five ounces (cans, packages,
22 gullets), \$.06 tax; over three ounces and not exceeding five
23 ounces (glasses, tumblers, bottles), seven cents tax; over
24 five ounces and not exceeding six ounces, \$.08 tax; weighing
25 over six ounces, an additional \$.12 for each ounce or
26 fractional part thereof.

1 "(b) Whenever in this article reference is made to
2 any manufactured tobacco products on which the tax is based on
3 weight, the weight as shown by the manufacturer or the federal
4 internal revenue stamp shall apply.

5 "(c) When any articles or commodities subject to tax
6 in this article are given as prizes on punch boards, shooting
7 galleries, premiums, etc., the tax shall be based on the tax
8 rates in subsection (a) of such articles.

9 "(d) The tax herein levied shall be paid to the
10 state through the use of stamps as herein provided. However,
11 every wholesaler, distributor, jobber, semijobber, or retail
12 dealer shall add the amount of the tax levied herein to the
13 price of the tobacco or tobacco products sold, it being the
14 purpose and intent of this provision that the tax levied is in
15 fact a levy on the ultimate consumer or user with the
16 wholesaler, distributor, jobber, semijobber, or retail dealer
17 acting merely as an agent of the state for the collection and
18 payment of the tax to the state. Therefore, notwithstanding
19 any exemptions from taxes which any such seller may now or
20 hereafter enjoy under the Constitution or laws of this or any
21 other state, or of the United States, he or she shall collect
22 the tax imposed hereunder from the purchaser or consumer, and
23 the amount of the tax shall constitute a debt from the
24 purchaser or consumer to the seller until paid. It shall be
25 unlawful for any person, firm, corporation, association, or
26 copartnership to fail or refuse to add to the sales price and
27 collect from the purchaser the amount of the tax to be added

1 to the sales price and collected from the purchaser hereunder.
2 Stamps in denominations to the amount of the tax or in
3 denominations specified pursuant to subsection (e) of this
4 section shall be affixed to the box or other container from or
5 in which tobacco products taxed by this section are normally
6 sold at retail. The stamps shall be affixed in such a manner
7 that their removal will require continued application of
8 water, steam, or heat; and in case of cigars, cheroots,
9 chewing tobacco and like manufactured tobacco products, where
10 sales are made from the original container, the stamps shall
11 be affixed to the box or container in such a way that the
12 stamps shall be torn in two or mutilated when such containers
13 or boxes are opened for the sale of the tobacco products. In
14 the case of cigarettes, smoking tobacco, snuff, and like
15 products sold at retail in packages, the required amount of
16 stamps to cover the tax shall be affixed to each individual
17 package or container. All taxable tobaccos herein enumerated,
18 when offered for sale, either at wholesale or retail, without
19 having stamps affixed in the manner set out by this article,
20 or without payment of the tax by return by the wholesaler,
21 jobber, semijobber, or registered retailer, shall be subject
22 to confiscation, in the manner provided for contraband goods
23 as set out in this article.

24 "(e) The Commissioner of Revenue shall prepare and
25 issue stamps in denominations for the amount of the tax
26 imposed by this article provided that if the commissioner
27 determines that it is not economical for the state to have a

1 stamp prepared and issued for one or more particular types of
2 packages of tobacco products, then the commissioner may by
3 regulation prescribe the use of a stamp in a denomination
4 other than for the amount of the tax imposed with the
5 difference between the amount of tax actually imposed and the
6 amount of tax denominated by the stamp paid with the use of a
7 monthly report; or may require a monthly report without use of
8 a stamp to report the amount of taxes due.

9 "(f) The increases levied by this section shall be
10 exclusive and shall be in lieu of any other or additional
11 local taxes and/or license fees, county or municipal, imposed
12 on the sale or use of cigarettes and/or other tobacco
13 products. Notwithstanding the foregoing, an act of the
14 Legislature or an ordinance or resolution by a taxing
15 authority passed or enacted on or before May 18, 2004,
16 imposing a local tax and/or license fee shall remain
17 operative, but no additional local tax and/or license fee may
18 thereafter be levied on the sale of cigarettes and/or other
19 tobacco products.

20 "(g) Local taxes and/or license fees, county or
21 municipal, imposed on the sale or use of cigarettes shall be
22 paid to the local government through the use of stamps affixed
23 to the product as provided herein for the state tax. Provided,
24 however, this requirement shall not be interpreted to require
25 the Department of Revenue to prepare all stamps or to collect
26 all local taxes. Local governments may contract with another

1 entity to collect their local cigarette tax but all local
2 taxes must be collected as provided herein."

3 Section 2. Notwithstanding any other provision of
4 Chapter 25, Title 40, Code of Alabama 1975, all revenue
5 received from the increased tax levied by this amendatory act
6 shall be deposited into the State General Fund.

7 Section 3. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.